

March 31, 2015

**Open Letter to M.P. Blake Richards, Chair of the Standing Committee on Aboriginal Affairs and Northern Development, regarding Bill S-6, *An Act to Amend the Yukon Environmental and Socio-economic Assessment Act***

This past Monday the Standing Committee on Aboriginal Affairs and Northern Development met in Whitehorse, Yukon to discuss Bill S-6, *An Act to Amend the Yukon Environmental and Socio-economic Assessment Act* (YESAA). A wide cross-section of Yukon residents, many from Yukon First Nations, sat in to listen to witnesses speak to the Standing Committee.

The morning was dedicated to government. Yukon's Premier Paslowski was followed by the Grand Chief and leadership from First Nation governments. Although he spoke in favor of the amendments moving forward through Parliament, the Premier did extend an offer to First Nations to work on a bilateral basis on an accord to address how four particularly contentious provisions in the Bill would be implemented in the Yukon context. The "big four" include capacity for the federal Minister to issue binding policy directives to the YESA Board, the ability of the federal Minister to delegate this authority to the territorial government, entrenchment of timelines in the Act itself, and finally removing the need to have project renewals go back for an assessment in the YESAA process.

The First Nations' perspective is that proper consultation regarding these four aspects of Bill S-6 did not occur, even though a copy of the draft Bill was shared with them some months ago. This engagement can best be described as an information session, and was not used as a means to debate and gain accommodation with First Nations on the "big four". First Nations were quick to point out that they had not been included in the earlier 5 year review of the YESA process. To them, the attempt to move these four points through without appropriate consultation is a breach of the terms of the modern day Treaties (Land Claims Agreements with 11 Yukon First Nations, based on the Umbrella Final Agreement).

The discussions during the day bounced back and forth between, pass the Bill without the 4 offensive provisions, pass the Bill intact with the 4 in, or postpone the Bill's continued journey through Parliament until consultations have been properly conducted with First Nations on these contentious points. One compromise was proposed relating to dropping the governance items relating to policy direction and delegation, while keeping the provisions most important to industry on timelines and licensing renewals.

Mr. Chair and Members of the Standing Committee, I would like to propose another option. I ask that you respectfully consider passage of the entire Bill with all provisions intact. However, for the four matters of contention, have a clause in the Bill that postpones those sections coming into force and effect until a later date after full consultation with Yukon First Nations. This would not require a return to Parliament, but could be fulfilled through a Governor in Council Order (an Order made by the federal Cabinet).

This solution would eliminate the risk of losing the Bill at the federal election (scheduled for October 19, 2015), if indeed the entire Bill were to be postponed to allow for consultation (at the calling of an election, all Bills on the Order Paper die and have to start over again during the next Parliament). At the same time, it would allow for proper engagement with First Nations on compromises that very well could be realized through another round of talks on the "big 4". And, yes, First Nations did say they are

willing to sit down to discuss them. Indeed some submissions they have made go so far as to suggest that they are willing to compromise. During the Senate hearings on Bill S-6 this willingness to compromise was also explicitly stated.

In effect, we are not all that far away from reaching a solution that may very well be acceptable in the Yukon context. Our industries need support, but our First Nation governments need respect; they've earned it!

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